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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,029	08/28/2001	Melvin Hatch	NM Tech 8	5719

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 66 EAST
SUITE B
TIJERAS, NM 87059

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,029

Applicant(s)

HATCH, MELVIN

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11/18/02 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 11/18/02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of 24 meeting the base 27 at the location shown. The joint could be on the top surface of the base as shown, or the joint could be on the outer surface of the outer portion 24, or the joint could be angled between the two surfaces. The specification does not specify how or where the joint is made. Moreover, the section lines above 26 are not consistent with the other drawings.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "base with apertures" and "the base is a separate component to which the outer portion is connected" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6-8, 11-13, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Golden (US 1,651,346). Regarding claim 1, the bottom of the vessel 3 is round since the container is circular. The bottom is round as in a circle. The inner surface is concave at the corners below the lead line of 2 as seen in Figs. 2 and 3. The structure is capable of being placed on a heating element. The intended use does not require any structure that is not in the reference. The outer portion 1 extends away from the upper location of the inner portion and merges with the rounded lip base. See Col. 1, line 38, where it is stated that the base is metal. The structure of Golden holds a vessel with a round bottom as seen in Fig. 2. The structure of Golden is capable of holding a vessel with a curved bottom. A curved bottom vessel could sit in the support where part of the curved bottom is on the flat bottom of the support and the rest of the curved bottom could be supported on the rounded edge that is the upper location. The claim only requires that the support be capable of being used in that environment. Regarding claim 4, see Figs. 2 and 3, where the support is made from a single sheet of metal since there are no seams or joints as seen in the cross-section views. Moreover, this limitation does not require any structure that is not in the Golden reference. Regarding claim 6, see Figs. 2 and 3, where the outer portion tapers outwardly from the

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upper location. Regarding claim 7, see Figs. 2 and 3, where the outer portion extends essentially cylindrically from the upper location towards the base. Regarding claim 8, the base, which is the rounded corner, is a continuous sheet without apertures. Regarding claim 11, the base extends radially outward from where the outer portion merges with the base. See Figs. 2 and 3, where the part of the rounded corner that merges with the outer portion is radially outward of the outer portion. Regarding claim 12, the three parts are a monolithic component. The cross-sections of Figs. 2 and 3 do not show any joints or seams. Regarding claim 13, see Figs. 2 and 3 where the base is formed by a lower part of the outer portion remote from the upper location of the inner portion as seen in Figs. 2 and 3. Regarding claim 15, the bottom of the inner portion has a small flat section. The relative term small does not define over the reference to Golden. Regarding claim 16, the bottom of the inner portion is spaced from the plane of the base. Regarding claim 17, the structure of Golden is capable of being placed on an electric hot plate having a flat surface. The base claim from which claim 17 depends, clearly states that the support is for placement on a heating element. The intended use does not require any structure that is not in the reference. Moreover, the structure of Golden is capable of being placed on an electric heating element that has a flat surface. Claim 17 does not require the combination of the heating element and the support.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Shaw et al (US 5,127,188). Regarding claims 2 and 3, Golden does not teach the specific metals. Shaw et al, as seen in Col. 2, lines 2-7, teaches a receptacle support that can be made of copper or aluminum. It would have been obvious to employ the copper and aluminum of Shaw et al in the support of Golden to employ durable and long lasting materials.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Siegel (US 2,691,816). Regarding claim 5, Golden does not teach making the support of a multi-layer metal sheet. Siegel, as seen in Col. 1, teaches making a multi-layer metal sheet with a very layer of gold. It would have been obvious to make the support of Golden a multi-layer metal as taught by Siegel to provide a more decorative structure.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Emmer. Regarding claim 9, Golden teaches a rounded base instead of flat. Emmer, as seen in Fig. 1, teaches a support that has a flat outwardly extending base. It would have been obvious to employ the flat outwardly extending base of Emmer in the support of Golden to provide a more stable support.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Marguiles. Regarding claim 10, Golden does not teach the base being separate from the outer portion. Marguiles teaches a similar structure where the base is

a separate member from the outer portion. It would have been obvious to make the base of Golden separate from the outer portion to provide another way of manufacturing the support.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Wischusen, III. Regarding claim 14, Golden teaches the outer portion being essentially cylindrical but does not teach the base being square. Wischusen, III, as seen in Figs. 1 and 4, teaches that a support similar to Golden that has an essentially cylindrical outer portion can have either a circular base or a square base. It would have been obvious to employ the square base of Wischusen in the support of Golden to provide an alternative configuration for the base as taught by Wischusen, III.

Claims 1, 4, 6-8, 11-13, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al (US 1,141,846). Regarding claim 1, to the degree that the bottom has to be curved then the support of Golden does not teach this structure. Spremulli et al, as seen in Fig. 1, teaches a similar support where the bottom is curved for support a receptacle with a curved bottom. It would have been obvious to employ the curved bottom of Spremulli et al in the support of Golden to support a curved bottom vessel as taught by Spremulli et al. The structure is capable of being placed on a heating element. The intended use does not require any structure that is not in the combination of references. The outer portion 1 extends away from the upper location of the inner portion and merges with the rounded lip base. See Col. 1, line 38, where it is stated that the base is metal. Regarding claim 4, see Figs. 2 and 3, where the support is made from a single sheet of metal since there are no seams or

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joints as seen in the cross-section views. Moreover, this limitation does not require any structure that is not in the Golden reference. Regarding claim 6, see Figs. 2 and 3, where the outer portion tapers outwardly from the upper location. Regarding claim 7, see Figs. 2 and 3, where the outer portion extends essentially cylindrically from the upper location towards the base. Regarding claim 8, the base, which is the rounded corner, is a continuous sheet without apertures. Regarding claim 11, the base extends radially outward from where the outer portion merges with the base. See Figs. 2 and 3, where the part of the rounded corner that merges with the outer portion is radially outward of the outer portion. Regarding claim 12, the three parts are a monolithic component. The cross-sections of Figs. 2 and 3 do not show any joints or seams. Regarding claim 13, see Figs. 2 and 3 where the base is formed by a lower part of the outer portion remote from the upper location of the inner portion as seen in Figs. 2 and 3. Regarding claim 15, the bottom of the inner portion of the modified support of Golden has is curved and has a small flat section in the center of the bottom as seen in Fig. 2 of Spremulli et al. Regarding claim 16, the bottom of the inner portion is spaced from the plane of the base. Regarding claim 17, the structure of Golden is capable of being placed on an electric hot plate having a flat surface. The base claim from which claim 17 depends, clearly states that the support is for placement on a heating element. The intended use does not require any structure that is not in the combination of references. Moreover, the structure of Golden is capable of being placed on an electric heating element that has a flat surface. Claim 17 does not require the combination of the heating element and the support.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al as applied to claim 1 above and further in view of Shaw et al (US 5,127,188). Regarding claims 2 and 3, the modified support of Golden does not teach the specific metals. Shaw et al, as seen in Col. 2, lines 2-7, teaches a receptacle support that can be made of copper or aluminum. It would have been obvious to employ the copper and aluminum of Shaw et al in the support of Golden to employ durable and long lasting materials.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al as applied to claim 1 above and further in view of Siegel (US 2,691,816). Regarding claim 5, the modified support of Golden does not teach making the support of a multi-layer metal sheet. Siegel, as seen in Col. 1, teaches making a multi-layer metal sheet with a very layer of gold. It would have been obvious to make the modified support of Golden a multi-layer metal as taught by Siegel to provide a more decorative structure.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al as applied to claim 1 above and further in view of Emmer. Regarding claim 9, the modified support of Golden teaches a rounded base instead of a flat base. Emmer, as seen in Fig. 1, teaches a support that has a flat outwardly extending base. It would have been obvious to employ the flat outwardly extending base of Emmer in the modified support of Golden to provide a more stable support.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al as applied to claim 1 above and further in view of Marguiles.

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Regarding claim 10, the modified support of Golden does not teach the base being separate from the outer portion. Marguiles teaches a similar structure where the base is a separate member from the outer portion. It would have been obvious to make the base of Golden separate from the outer portion to provide another way of manufacturing the support.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Spremulli et al as applied to claim 1 above and further in view of Wischusen, III. Regarding claim 14, the modified support of Golden teaches the outer portion being essentially cylindrical but does not teach the base being square. Wischusen, III, as seen in Figs. 1 and 4, teaches that a support similar to Golden that has an essentially cylindrical outer portion can have either a circular base or a square base. It would have been obvious to employ the square base of Wischusen in the support of Golden to provide an alternative configuration for the base as taught by Wischusen, III.

Response to Arguments

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toldi is cited for teaching a conductive support for a curved bottom vessel such as a wok.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

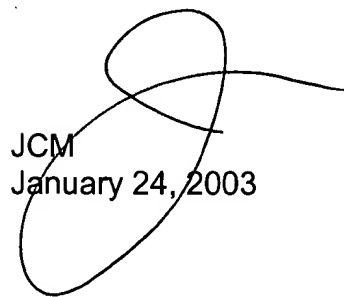
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for

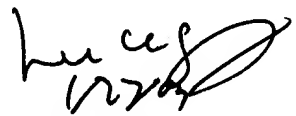
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the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM
January 24, 2003



LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700